

KEVIN V. RYAN (CSBN 118321)
United States Attorney

EUMI L. CHOI (WVBN 0722)
Chief, Criminal Division

MARK L. KROTKO (CSBN 138549)
Assistant United States Attorney

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5035
Facsimile: (408) 535-5066

Attorneys for Plaintiff

FILED

JUL 21 2005

RICHARD M. WILKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) No. CR 05-00445-RMW
Plaintiff,) STIPULATION REGARDING
v.) EXCLUDABLE TIME AND [PROPOSED]
DAVID M. FISH,) ORDER
aka x000x,)
CHIRAYU PATEL,)
aka nebula, aka nebwrk, aka aluben,)
aka notneb, aka aluben,)
WILLIAM VEYNA,)
aka guyzzz, aka - - - , aka 1010101,)
aka 5555, aka i_love_dact, aka 8675309,)
NATHANIEL E. LOVELL,)
aka Nate Lovell, aka pestilenc, aka pest,)
Defendants.)

It is hereby stipulated and agreed between defendant David M. Fish, and his counsel Paul B. Meltzer, and the United States as follows:

On July 21, 2005, defendant Fish was arraigned on a nine-count indictment, charging as follows: Count One: Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in

1 Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a
2 Technological Measure that Protects a Copyright Work, and Use Audiovisual Recording Devices
3 to Make Unauthorized Copies Of Audiovisual Works, in violation of 18 U.S.C. § 371; Count
4 Two: Circumventing a Technological Measure Protecting a Copyright Work and Aiding and
5 Abetting, in violation of 17 U.S.C. §§ 1201(a)(1)(A), 1204(a)(1), and 18 U.S.C. § 2; Counts
6 Three, Four and Five: Trafficking in Technology Primarily Designed to Circumvent
7 Technological Measures Protecting A Right of a Copyright Owner and Aiding and Abetting, in
8 violation of 17 U.S.C. §§ 1201(a)(2)(A), and 1204(a)(1) and 18 U.S.C. § 2; Counts Six, Seven,
9 Eight and Nine: Criminal Copyright Infringement By Electronic Means and Aiding and
10 Abetting, in violation of 17 U.S.C. § 506(a)(1)(B), 18 U.S.C. § 2319(c)(1) and 18 U.S.C. § 2;
11 and an allegation of Criminal Forfeiture and Destruction, in violation of 17 U.S.C. §§ 506(b) and
12 509(a). A status conference was set for September 26, 2005 at 9:00 a.m. before the Honorable
13 Ronald M. Whyte.

14 In this case, the government is providing initial discovery to the defense. A substantial
15 amount of discovery consists of digital evidence. The parties stipulate and move the Court to
16 exclude time under the Speedy Trial Act from the date of the arraignment, July 14, 2005, until
17 the next status conference on September 26, 2005, because the parties believe that the ends of
18 justice served by the granting of such a continuance outweigh the best interests of the public and
19 the defendant in a speedy trial, particularly since reasonable time is needed for the defense to
20 prepare for pretrial and trial matters, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii).
21 The parties further stipulate that time may be excluded for reasonable time for defense

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1 preparation, since the failure to exclude time would deny counsel for the defendant reasonable
2 time necessary for effective preparation, taking into account the exercise of due diligence,
3 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv). There are also three co-defendants in
4 this case and time was previously excluded from July 14, 2005 to September 26, 2005, which
5 presents a separate basis for exclusion, pursuant to 18 U.S.C. §§ 3161(h)(7) (excluding time for
6 reasonable period of delay when the defendant is joined for trial with a codefendant as to whom
7 the time for trial has not run and no motion for severance has been granted).

8 So stipulated.

9 Dated: July 21, 2005

KEVIN V. RYAN
United States Attorney



MARK L. KROTKOFSKI
Assistant United States Attorney

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11 So stipulated.

12 Dated: July 21, 2005



PAUL B. MELTZER
Attorney for Defendant Fish

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ORDER

Based upon the foregoing Stipulation and good cause appearing therefor,

IT IS HEREBY ORDERED that the time between July 21, 2005 and September 26, 2005
shall be excluded from the computation period within which the trial must commence, for the
sons and based upon the statutory provisions set forth by the parties in this Stipulation,
luding that time is needed for effective defense preparation.. The Court finds that the ends of
tice outweigh the interests of the public and the parties in a speedier trial based upon the
ounds set forth above.

DATED: July 21, 2005

Patricia V. Trumbull
PATRICIA V. TRUMBULL
United States Magistrate Judge